

Executive Summary – Enforcement Matter – Case No. 50169

City of Roscoe

RN101917581

Docket No. 2015-0335-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - AIR, MSW, WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Roscoe WWTP, located approximately 0.7 mile east of the intersection of Farm-to-Market Road 608 and U.S. Highway 80 and on the north side of the service road to IH-20 in Roscoe, Nolan County

Type of Operation:

Abandoned wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 31, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,812

Amount Deferred for Expedited Settlement: \$2,362

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,725

Total Due to General Revenue: \$4,725

Payment Plan: 1 payment of \$4,725

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50169
City of Roscoe
RN101917581
Docket No. 2015-0335-MLM-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 29, 2014

Date(s) of NOE(s): February 5, 2015

Violation Information

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 30,030 cubic yards of municipal solid waste ("MSW") was burned at the Facility [30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Caused, suffered, allowed or permitted the unauthorized disposal of MSW. Specifically, approximately 18,028 cubic yards of MSW including construction and demolition debris; furniture; scrap metal; commercial, agricultural, and passenger vehicle tires; household waste; as well as other solid waste material were disposed of at the Facility. In addition, the Respondent caused, suffered, allowed or permitted the unauthorized disposal of solids/dried sludge in the former wastewater treatment plant storage ponds [30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately:
 - i. Cease disposing of any additional MSW at the Facility; and
 - ii. Cease unauthorized burning of MSW at the Facility.
- b. Within 30 days, remove all MSW from the Facility and dispose of it at an authorized facility.
- c. Within 180 days, close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011.
- d. Within 195 days, submit written certification to demonstrate compliance with a. through c.

Executive Summary – Enforcement Matter – Case No. 50169

City of Roscoe

RN101917581

Docket No. 2015-0335-MLM-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michael Meyer, Enforcement Division,
Enforcement Team 6, MC 128, (512) 239-4492; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Cody Thompson, City Administrator, City of Roscoe, P.O. Box 340,
Roscoe, Texas 79545

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	9-Feb-2015	Screening	27-Feb-2015	EPA Due	
	PCW	2-Mar-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Roscoe	
Reg. Ent. Ref. No.	RN101917581	
Facility/Site Region	3-Abilene	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	50169	No. of Violations	2
Docket No.	2015-0335-MLM-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media	Municipal Solid Waste and Water Quality	Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$11,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$562**

Notes Enhancement for one NOV with same or similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$462,602
Estimated Cost of Compliance \$713,129
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$11,812**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$11,812**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$11,812**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,362**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$9,450**

Screening Date 27-Feb-2015

Docket No. 2015-0335-MLM-E

PCW

Respondent City of Roscoe

Policy Revision 4 (April 2014)

Case ID No. 50169

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101917581

Media [Statute] Air

Enf. Coordinator Michael Meyer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 27-Feb-2015
Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media [Statute] Air
Enf. Coordinator Michael Meyer
Violation Number 1

Docket No. 2015-0335-MLM-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s)

30 Tex. Admin. Code § 111.201 and Tex. Health & Safety Code § 382.085(b)

Violation Description

The Respondent caused, suffered, allowed, or permitted outdoor burning within the State of Texas. Specifically, approximately 30,030 cubic yards of municipal solid waste ("MSW") was burned at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended based on the December 29, 2014 investigation.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Extraordinary

Ordinary

N/A

Notes

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

x	(mark with x)

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$443,979

Violation Final Penalty Total \$3,938

This violation Final Assessed Penalty (adjusted for limits) \$3,938

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$443,979	15-Jun-2014	16-Jun-2014	0.00	\$0	\$443,979	\$443,979
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly dispose of approximately 30,030 cubic yards of MSW rather than burning. The date required is one day prior to a complaint investigation, and the final date is the complaint investigation date.

Approx. Cost of Compliance \$443,979

TOTAL \$443,979

Screening Date 27-Feb-2015
Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media [Statute] Air
Enf. Coordinator Michael Meyer
Violation Number 2

Docket No. 2015-0335-MLM-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a) and (c) and Tex. Water Code § 26.121

Violation Description

The Respondent caused, suffered, allowed or permitted the unauthorized disposal of MSW. Specifically, approximately 18,028 cubic yards of MSW including construction and demolition debris; furniture; scrap metal; commercial, agricultural, and passenger vehicle tires; household waste; as well as other solid waste material were disposed of at the Facility. In addition, the Respondent caused, suffered, allowed or permitted the unauthorized disposal of solids/dried sludge in the former wastewater treatment plant storage ponds.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		15.0%
Potential				

264150

>> Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 60 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the December 29, 2014 investigation to the February 27, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18,623

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

Economic Benefit Worksheet

Respondent City of Roscoe
Case ID No. 50169
Reg. Ent. Reference No. RN101917581
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$264,150	16-Jun-2014	31-Oct-2015	1.38	\$18,165	n/a	\$18,165
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	16-Jun-2014	15-Apr-2016	1.83	\$458	n/a	\$458

Notes for DELAYED costs

Estimated delayed cost to remove all MSW from the Facility and dispose of it at an authorized facility (\$264,150) and to close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ (\$5,000). The date required is the complaint investigation date, and the final dates are the estimated dates of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$269,150

TOTAL

\$18,623

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600738843, RN101917581, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600738843, City of Roscoe

Classification: SATISFACTORY

Rating: 14.20

Regulated Entity: RN101917581, CITY OF ROSCOE

Classification: SATISFACTORY

Rating: 1.60

Complexity Points: 4

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 0.7 MILE EAST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 608 AND US HIGHWAY 80 AND ON THE NORTH SIDE OF THE NORTH SERVICE ROAD TO INTERSTATE HIGHWAY 20 IN THE CITY OF ROSCOE, TX, NOLAN COUNTY

TCEQ Region: REGION 03 - ABILENE

ID Number(s): WASTEWATER LICENSING LICENSE WQ0010263001

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: March 02, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 02, 2010 to March 02, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History:

Name: Michael Meyer

Phone: (512) 239-4492

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 **Date:** 08/08/2014 (1178876) **CN600738843**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 111, SubChapter B 111.201
5C THSC Chapter 382.085(b)
Description: Failure to comply with the general prohibition on outdoor burning within the State of Texas as required by 30 Tex. Admin. Code (TAC) 111.201 and by not meeting an exception as provided in 30 TAC 111.205 - 111.215.
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)
Description: Failure to prevent a person from causing, suffering, allowing, or permitting the dumping or disposal of Municipal Solid Waste (MSW) without the written authorization of the TCEQ.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROSCOE
RN101917581**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-0335-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Roscoe ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates an abandoned wastewater treatment plant located approximately 0.7 mile east of the intersection of Farm-to-Market Road 608 and United States Highway 80 and on the north side of the service road to Interstate Highway 20 in the City of Roscoe, Nolan County, Texas (the "Facility").
2. The Facility consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12). The Facility involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 10, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eleven Thousand Eight Hundred Twelve Dollars (\$11,812) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Seven Hundred Twenty-Five Dollars (\$4,725) of the administrative penalty and Two Thousand Three Hundred Sixty-Two Dollars (\$2,362) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Seven Hundred Twenty-Five Dollars (\$4,725) shall be paid within 30 days after the effective date of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Caused, suffered, allowed, or permitted outdoor burning within the State of Texas, in violation of 30 TEX. ADMIN. CODE § 111.201 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 29, 2014. Specifically, approximately 30,030 cubic yards of MSW was burned at the Facility.

2. Caused, suffered, allowed or permitted the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(a) and (c) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on December 29, 2014. Specifically, approximately 18,028 cubic yards of MSW including construction and demolition debris; furniture; scrap metal; commercial, agricultural, and passenger vehicle tires; household waste; as well as other solid waste material were disposed of at the Facility. In addition, the Respondent caused, suffered, allowed or permitted the unauthorized disposal of solids/dried sludge in the former wastewater treatment plant storage ponds.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Roscoe, Docket No. 2015-0335-MLM-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease disposing of any additional MSW at the Facility; and
 - ii. Cease unauthorized burning of MSW at the Facility.
 - b. Within 30 days after the effective date of this Agreed Order remove all MSW from the Facility and dispose of it at an authorized facility.
 - c. Within 180 days after the effective date of this Agreed Order, close the wastewater treatment storage ponds in accordance with the closure plan approved by the TCEQ on September 16, 2011.

- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the

Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Randy Norrie
For the Executive Director

10/7/15
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Cody Thompson
Signature

6-18-2015
Date

Cody Thompson
Name (Printed or typed)
Authorized Representative of
City of Roscoe

City Administrator
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.